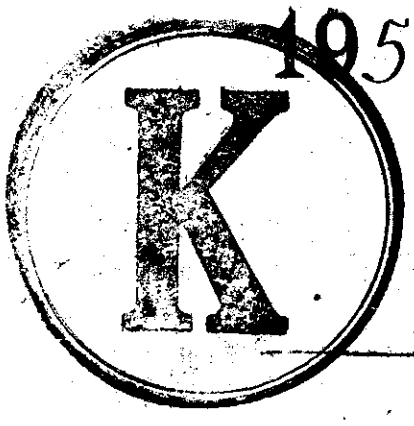

1951

File No. Tenancy II

51(N) pt II

Legal Department

B **BRANCH**

Subject:— Notifications under the Bombay Tenancy & Agricultural Lands Act, 1948.

P.3
E

(For previous pps pl see pt-I)

File No. Tenancy II/51(N) pt-II

Gen. 194 e.

158-B

Office of the R.L.

By G.N.R.D. No. 4295/49(b), dated the 5th April 1951, the State Government has assumed under sec. 44 of the Bombay Agricultural Lands and Tenancy Act, 1948, the management of several estates in Sabarkantha District including the Pal Jagir. The Pal Jagir, it appears, consists of several villages. Out of the villages forming part of the said estate, it is now proposed by R.D. to terminate under sec. 61 of the said Act the management of one village called 'Bogupada' and a draft notification prepared by R.D. for the purpose has been sent to L.D. for scrutiny.

Section 61 of the Bombay Agricultural Lands and Tenancy Act provides inter alia that the State Govt. when it is of opinion that it is not necessary to continue the management of the estate may, by order published in the Official Gazette, direct that the said management shall be terminated. Under this section, it is only the management of the entire estate as a whole that can be terminated. It cannot be terminated in respect of a part of such estate.

In this connection attention is invited to R.L.A's opinions No. 1595, dated 18th October 1949 and No. 3188, dated 21st February 1951 where it has been held that section 44 of the Bombay Agricultural Lands and Tenancy Act is intended to apply to the management of 'estates' and not to individual villages and further that the whole scheme of Chapter IV shows that the entire estate as a whole is to be taken under management. Similarly, under section 61 of the said Act the management of the entire estate and not that on an village forming part of such estate has to be terminated.

The proposal of R.D. to terminate the management of only one village out of the whole estate is

When the estate has been taken under a management un under section 44 of the Act, the manager has to send a report to the State Government before the 31st March next following such assumption of the management. The Government has to decide whether the management should be terminated or should be continued further. As under the present rule 31 the Manager has to send a report before the 31st March every year, Government, it appears, passes order on the report of the Manager to continue management for a period of one year at a time. It is, however, provided in the proviso to sub-rule (2) of rule 31 that after the expiry of five years from the date on which the management was assumed the Collector shall hold a formal inquiry in the manner specified therein, and shall submit his report to the Government which is to decide whether or not to continue the management. It is further provided that the management of any estate shall not be continued after the lapse of ~~eight~~ eight years from the date of assumption of the management. It does not appear to be the intention of the Government to affect the provisions of sub-rule (2) of rule 31 of the said Rules. What is intended is that as soon as the first report after the assumption of the management is submitted to Government by the Manager, the Government should have the power to decide that the management should be continued for such period as Government may think fit not ~~exceed~~exceeding 3 years at a time. In a case where Government decides to continue the management for a specified period, it will be necessary to provide that the manager shall submit his report before such date as may be specified before the expiry of the period for ~~which~~ which the management has been continued. Revenue Department's draft suggests that the Manager has to submit his report on the expiry of the ~~the~~ extended period which is not correct as Government must receive such report before the expiry of the extended

extended period.

A revised draft notification is sent herewith, on the presumption that the provisions of sub-rule (2) are not to be affected in any way.

Remembrancer of Legal Affairs.

U.O. to R.D.No. 17814, dated the 9th Nov., 1951.

SSM / 18/7/56.